

**STATE OF WISCONSIN
BEFORE THE GOVERNMENT ACCOUNTABILITY BOARD**

REPUBLICAN ASSEMBLY CAMPAIGN COMMITTEE
Jennifer Toftness,

Complainant,

v.

FRIENDS OF MANDELLA BARNES,
Mandela Barnes,

Respondent.

VERIFIED RESPONSE

I, Attorney Rebecca K. Mason, REBECCA MASON LAW LLC, on behalf of my client, Friends of Mandela Barnes, Mandela Barnes, first being duly sworn, state as follows:

I. BACKGROUND FACTS

1. On June 2, 2014, Representative Mandela Barnes timely filed with the Government Accountability Board a declaration of candidacy and nomination papers for nomination for the upcoming partisan primary for the 11th Assembly District.

2. Rep. Barnes is an adult resident of the State of Wisconsin, and a qualified elector in the 11th Assembly District, residing at 4800 N. Port Washington Road, Apt. 205, Milwaukee WI 53217. Affidavit of Mandela Barnes, June 9, 2014 (herein after "Barnes Aff."), ¶¶ 1 & 2.

3. Rep. Barnes' nomination papers stat that his address is 4800 N. Port Washington Road, Milwaukee WI 53217.

4. Rep. Barnes recently moved to this location and originally believed the apartment was located in the City of Glendale. Barnes Aff. ¶3.

5. Shortly after moving to his new home, in response to Rep. Barnes call to the City of Glendale Police Department to report a vehicle break-in, Rep. Barnes was informed that he lived in the City of Milwaukee and should instead contact that police department. Barnes Aff. ¶ 4.

6. Based on that information, at the time Rep. Barnes printed his nomination papers, signed the papers as a circulator, signed the oath on his declaration of candidacy, and timely filed his declaration of candidacy, he believed his apartment was located within the City of Milwaukee. Barnes Aff. ¶ 6.

7. Rep. Barnes has recently learned that he resides in the City of Glendale. Barnes Aff. ¶¶ 7 & 8.

8. Rep. Barnes is filing a corrected declaration of candidacy pursuant to Wis. Stat. § 8.21(6).

II. NOMINATION PAPERS

9. Wisconsin law requires that the top of each nomination paper contain, among other things, the name and residential street address of the candidate seeking nomination papers. Wis. Stat. § 8.15(5)(a).

10. Each page of Rep. Barnes' nomination papers states Rep. Barnes's voting and residential address: 4800 N. Port Washington Road, Milwaukee WI 53217.

11. There is no statutory or administrative code provision that requires the candidate's municipality of residence for voting purposes appear on the nomination papers. *Compare* Wis. Stat. § 8.15(2) ("in order for the signature to be valid, each signer of a nomination paper shall... list his or her municipality of residence for voting purposes...."); Wis. Admin. Code § GAB 2.05(12) ("A complete address, including municipality of residence for voting purposes... shall be listed for each signature on a nomination paper.").

12. Wisconsin law requires that each circulator of a nomination paper sign a certification stating, among other things, his or her residence, including street address and number, if any. Wis. Stat. § 8.15(4). See also Wis. Admin. Code § GAB 2.05(14) ("No signature may be counted when the residency of the circulator cannot be determined by the information given on the nomination paper.").

13. Each nomination paper circulated by Rep. Barnes includes a certification by Rep. Barnes that, among other information, accurately lists his residence as 4800 N. Port Washington Road, Milwaukee WI 53217.

14. There is no statutory or administrative code provision that requires the circulator's municipality of residence for voting purposes appear in the certification. *Compare* Wis. Stat. § 8.15(2); Wis. Admin. Code § GAB 2.05(12).

III. DECLARATION OF CANDIDACY

15. Wisconsin law requires that a declaration of candidacy contain, among other things, “[a] statement that discloses the candidate’s municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides.” Wis. Stat. § 8.21(4)(b).

16. The declaration of candidacy must be sworn to before an officer authorized to administer oaths. Wis. Stat. §8.21(2).

17. When Rep. Barnes filed his declaration of candidacy on June 2, 2014, he swore under oath that his address was 4800 N. Port Washington Road, Milwaukee WI 53217.

18. Rep. Barnes’ declaration of candidacy accurately states Rep. Barnes’ voting and residential address: 4800 N. Port Washington Road, Milwaukee WI 53217.

19. When Rep. Barnes filed his declaration of candidacy on June 2, 2014, he swore under oath that his municipality of residence was the City of Milwaukee.

20. This was based on information and belief at the time he signed the oath.

21. Rep. Barnes recently discovered that his municipality of residence is the City of Glendale and not the City of Milwaukee.

22. Accordingly, Rep. Barnes has recently discovered that his original, timely-filed declaration of candidacy contained an inaccuracy with regard to his municipality of residence.

23. A candidate is required to file an amended declaration of candidacy if any information contained in the declaration changes at any time after the original declaration is filed. Wis. Stat. § 8.21(6).

24. Rep. Barnes is filing an amended declaration of candidacy.

III. RESIDENCY OF CANDIDATES AND CIRCULATORS

25. Although the 2011 legislative district maps split the apartment building between two Assembly Districts, Rep. Barnes’s apartment, #205, is located entirely within the 11th Assembly District. Barnes Aff. ¶ 9.

26. Even if this Board disagrees with Rep. Barnes read of the district boundaries and concludes that Rep. Barnes currently resides outside of his district, a candidate need not reside in his district at the time that nomination papers are filed.

27. The Wisconsin Constitution sets forth the qualifications for an individual to serve as a legislator in the Wisconsin Assembly:

No person shall be eligible to the legislature who shall not have resided one year within the state, and be a qualified elector in the district which he may be chosen to represent.

Wis. Const. Art. IV, § 6.

28. Thus, the Constitution requires that an individual be a qualified elector of the district at the time he or she assumes office (or, arguably, on election day). *See Op. Atty. Gen. Aug. 26, 1976* (holding that a candidate for the legislature need not be a resident of the district he seeks to represent at the time he files his nomination papers because qualifications prescribed by the state constitution are exclusive and the Wisconsin Constitution only requires that he be a qualified elector of the district at the time he assumes office or, at the earliest, at the time of the election).

29. An individual circulating nomination papers need not be a resident of the district. *Frami v. Ponto*, 255 F.Supp. 2d 962 (W.D. Wis. 2003) (striking a residency requirement that all circulators be residents of the district on First Amendment grounds).

IV. CONCLUSION

30. There is no clear and unambiguous statute, administrative code provision, Attorney General Opinion, or court ruling that would preclude Rep. Barnes from appearing on the ballot due to an inadvertent error in listing an incorrect municipality of residence.

31. It is true that Rep. Barnes mistakenly listed an incorrect municipality of residence on his nomination papers as the candidate and circulator based on information and belief at the time he printed and signed the nomination papers.

32. However, candidates are not required to list their municipality of residence for voting purposes at the top of the nomination papers (Wis. Stat. § 8.15(5)(a)) and circulators are not required to list their municipality of residence in the certification at the bottom of the nomination papers (Wis. Stat. § 8.15(4)).

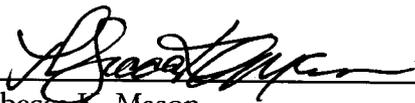
33. Candidates are required to list their municipality of residence in their declaration of candidacy.

34. It is true that Rep. Barnes mistakenly listed an incorrect municipality of residence on his declaration of candidacy based on information and belief at the time he took the oath and signed his declaration of candidacy.

35. Rep. Barnes is filing an amended declaration of candidacy, as allowed under Wis. Stat. § 8.21(6).

36. The true facts are that Rep. Barnes resides in the 11th Assembly District.

Respectfully submitted this 9th day of June 2014.

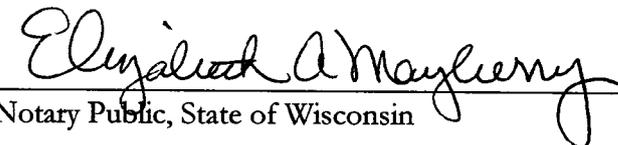


Rebecca K. Mason
REBECCA MASON LAW LLC
Attorney for Respondent Friends of Mandela
Barnes, Mandela Barnes

STATE OF WISCONSIN
COUNTY OF RACINE

Document Prepared By:

This document was acknowledged before me on
6-9-14 by Rebecca K. Mason.



Notary Public, State of Wisconsin

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My commission expires 9-23-17.

MANDELA BARNES**AFFIDAVIT**

I, Mandela Barnes, being duly sworn and under oath state:

1. My residence and mailing address is 4800 N. Port Washington Road, Apt. 205, Milwaukee, WI 53217.
2. Prior to moving to this location, I made sure that the apartment was located within the 11th Assembly District.
3. When I moved to this location earlier this calendar year, I originally believed that my home was located in the City of Glendale.
4. Shortly after moving to this location, my vehicle was broken in to and when I contacted the City of Glendale Police Department to report the break-in, they informed me that my apartment was located in the City of Milwaukee and directed me to instead report it to the Milwaukee Police Department.
5. I did, in fact, report the vehicle break-in to the City of Milwaukee and they responded to my call.
6. Accordingly, at the time I printed my nomination papers, signed my nomination papers, signed the oath on my declaration of candidacy, and filed my declaration of candidacy, I believed that 4800 N. Port Washington Road, Apt. 205, was located within the City of Milwaukee.
7. After receiving the Verified Complaint, I contacted the City Clerk for the City of Glendale to determine whether my apartment is located within the City of Glendale or the City of Milwaukee.

8. Attached hereto is a true and correct copy of a sworn statement by Susanne M. Hanaman, City Clerk for the City of Glendale, confirming that my apartment is located entirely within the City of Glendale, and therefore located within the 11th Assembly District.

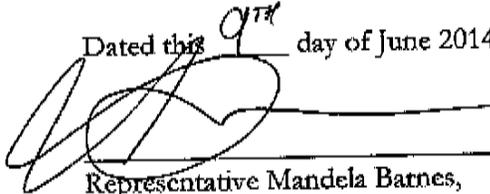
9. Based on my review of the district maps, Apartment 205 falls within Assembly District 11.

10. Attached hereto is a true and correct copy of a corrected declaration of candidacy indicating that my municipality of residence is the City of Glendale.

11. I am a resident of the State of Wisconsin, a qualified elector, registered to vote within the 11th Assembly District, and the elected Assembly Representative for the 11th Assembly District.

Further affiant sayeth naught,

Dated this 9th day of June 2014.



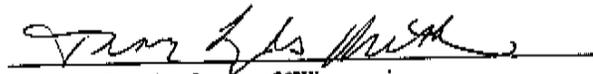
Representative Mandela Barnes,
11th Assembly District
Wisconsin Legislature

STATE OF WISCONSIN
COUNTY OF MILWAUKEE

Document Prepared By:

This document was acknowledged before me on

6/9/14 by Tracy LIZDAS MUTH.


Notary Public, State of Wisconsin

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My commission expires 4/9/18

